

UNITED STATES OF AMERICA  
POSTAL REGULATORY COMMISSION  
WASHINGTON, DC 20268-0001

Competitive Product Prices  
Global Expedited Package Services 3 (MC2010-28)  
Negotiated Service Agreement

Docket No. CP2013-68

PUBLIC REPRESENTATIVE COMMENTS ON  
POSTAL SERVICE NOTICE OF FILING AN ADDITIONAL  
GLOBAL EXPEDITED PACKAGE SERVICES 3  
NEGOTIATED SERVICE AGREEMENT

(June 25, 2013)

The Public Representative hereby provides comments pursuant to Order No. 1750.<sup>1</sup> In that Order, the Commission established the above referenced docket to receive comments from interested persons, including the undersigned Public Representative, on a Postal Service Notice of its entering into an additional Global Expedited Package Services (GEPS) 3 contract.<sup>2</sup> GEPS contracts provide incentive pricing to businesses that mail products to foreign destinations using Express Mail International (EMI), Priority Mail International (PMI), or both. Notice at 4. To qualify for a GEPS contract, a business mailer “must be capable, on an annualized basis, of paying at least \$200,000 in international postage to the Postal Service.”<sup>3</sup>

Prices and classifications not “of general applicability” for GEPS contracts were previously established by Governors’ Decision No. 08-7.<sup>4</sup> In Order No. 86, the

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<sup>1</sup> PRC Order No. 1750, Notice and Order Concerning Additional Global Expedited Package Services 3 Contract, June 18, 2013.

<sup>2</sup> Notice of United States Postal Service of Filing a Functionally Equivalent Global Expedited Package Services 3 Negotiated Service Agreement and Application for Non-Public Treatment of Materials Filed Under Seal, June 17, 2013 (Notice).

<sup>3</sup> Notice of the United States Postal Service of Minor Classification Change, Docket No. MC2012-8, January 30, 2012, at 3, showing conforming changes to the draft Mail Classification Schedule, 2510.3.1.

<sup>4</sup> See Notice of United States Postal Service of Governors’ Decision Establishing Prices and Classifications for Global Expedited Package Services Contracts, Docket No. CP2008-4, May 20, 2008.

Commission established GEPS 1 as a product on the competitive product list, and approved a specific GEPS contract.<sup>5</sup> The Commission also determined that additional contracts may be included in the GEPS 1 product, provided they meet the requirements of 39 U.S.C. § 3633 and they are functionally equivalent to the GEPS contract approved in the Order.<sup>6</sup> Subsequently, the Commission approved the addition of the GEPS 3 product to the competitive product list (MC2010-28), and included within that product a GEPS contract (CP2010-71) that would serve as the baseline agreement for functional equivalence comparisons with future contracts.<sup>7</sup> Since the addition of the GEPS 3 product to the competitive product list, the Commission has found that additional GEPS contracts were functionally equivalent to the baseline agreement and should be included in the GEPS 3 product.

The instant GEPS contract is the successor to the agreement approved in Docket No. CP2012-31.<sup>8</sup> If approved, the contract would expire one year after the effective date, to be established by Postal Service notice to the mailer. *Id.* at 2; Attachment 1 at 7.

The Postal Service states that the instant GEPS contract is functionally equivalent to the baseline agreement and is in compliance with the requirements of 39 U.S.C. § 3633. *Id.* at 3. The Postal Service therefore requests that the instant contract “be added to the GEPS 3 product grouping.” *Id.*

## COMMENTS

The Public Representative has reviewed the Postal Service’s Notice, the instant GEPS contract, and supporting financial model filed under seal that accompanies the Notice.<sup>9</sup> Based upon that review, the Public Representative concludes that the instant contract is functionally equivalent to the baseline agreement. In addition, it appears the

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<sup>5</sup> See PRC Order No. 86, Order Concerning Global Expedited Package Services Contracts, Docket No. CP2008-5, June 27, 2008.

<sup>6</sup> *Id.* at 7.

<sup>7</sup> See PRC Order No. 503, Order Approving Global Expedited Package Services 3 Negotiated Service Agreement, Docket Nos. MC2010-28 and CP2010-71, July 29, 2010.

<sup>8</sup> See PRC Notice and Order at 2.

<sup>9</sup> The Postal service also filed a revised financial model in response to CHIR No. 1 (June 24, 2013).

negotiated prices in the instant contract should generate sufficient revenues to cover costs and satisfy the requirements of 39 U.S.C. § 3633.

*Functional Equivalence.* The Postal Service asserts that the instant contract “shares similar cost and market characteristics . . . [and the] functional terms of the contract at issue are the same as those of the contract that is the subject of Docket No. CP2010-71, which serves as the baseline agreement for the GEPS 3 product grouping.” *Id.* at 3. However, the Postal Service identifies differences between the instant contract and the GEPS 3 baseline contract, due to changes in two of the introductory paragraphs of the Agreement; revisions to several existing articles, a notable one being a much increased minimum revenue commitment contained in Article 11, paragraph (1), and new, deleted and renumbered articles. *Id.* at 5-7. The Postal Service maintains that these differences do not affect either the fundamental service the Postal Service is offering or the fundamental structure of the contract. *Id.* at 7. The Public Representative agrees and concludes that the instant contract is functionally equivalent to the baseline agreement.

*Requirements of 39 U.S.C. § 3633.* Pursuant to 39 U.S.C. § 3633(a), the Postal Service’s competitive prices must not result in the subsidization of competitive products by market dominant products; ensure that each competitive product will cover its attributable costs; and, ensure that all competitive products collectively contribute an appropriate share of the institutional costs of the Postal Service. Based upon a review of the financial model filed under seal with the Postal Service’s Notice, it appears the negotiate prices in the instant GEPS contract should generate sufficient revenues to cover costs and thereby satisfy the requirements of section 3633(a). In addition, it appears that the instant Agreement will generate a considerable increase in total contribution to the Postal Service as compared to the Agreement which it succeeds.

The Postal Service refers to the May 6, 2008 Board of Governor’s Decision as establishing prices “by means of price floor and ceiling formulas”.<sup>10</sup> The Public

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<sup>10</sup> See Certification of Prices for the Global Expedited Package Service Contract filed contemporaneously with CP2013-68.

Representative, however, is unable discern whether such floors and ceilings have been, in fact, incorporated in the financial model accompanying this filing.

The Public Representative respectfully submits the foregoing comments for the Commission's consideration.

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